

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DEBORAH ANN SMITH,

Plaintiff,

vs.

PAY PAL, Inc.;

Defendant.

**8:12CV226**

**MEMORANDUM AND ORDER**

The plaintiff moved to amend this case and to combine it with case 8:13cv54. A hearing was held on the record on September 11, 2013. Based on the information obtained and discussed during the hearing, the court finds:

- The above-captioned case and case 8:13cv54 are against different defendants and raise distinct legal claims; with any issues of material fact to be decided in this case by a jury, and the resolution of 8:13cv54 to likely be resolved on the administrative record alone.
- As to those claims identified in plaintiff's charge of discrimination received by the NEOC on May 30, 2012, (See exhibit 1), the right to sue letter signed on May 13, 2013 was received by the plaintiff no later than May 25, 2013. As such, the claims outlined in Exhibit 1 and raised in plaintiff's proposed amended complaint filed on August 26, 2013 are time-barred.

Accordingly,

IT IS ORDERED:

- A) The plaintiff's motion to consolidate this case with case 8:13cv54 is denied.
- B) The plaintiff's motion to file an amended complaint, (Filing No. 37), is denied.
- C) The final progression order is as follows:
  - 1) The jury trial of this case is set to commence before Cheryl R. Zwart, United States Magistrate Judge, in the Special Proceedings Courtroom, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska, at 9:00 a.m. on May 13, 2014, or as soon thereafter as the case may be called, for a duration of three (3) trial days. Jury selection will be held at the commencement of trial.

- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **April 29, 2014** at **1:00 p.m.**, in the Special Proceedings Courtroom, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov), in either Word Perfect or Word format, by 5:00 p.m. on April 28, 2014.
- 3) Mandatory disclosures shall be served by October 11, 2013.
- 4) The deadline for completing written discovery under Rules 33 through 36 of the Federal Rules of Civil Procedure is December 6, 2013. Motions to compel Rule 33 through 36 discovery must be filed by November 22, 2013.
- 5) Depositions:
  - a. The plaintiff will appear for a deposition to be taken by defense counsel on December 11, 2013 at 9:00 a.m. in the Special Proceedings Courtroom, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Omaha, Nebraska.
  - b. The deposition deadline for this case is January 10, 2014.
- 6) The deadline for filing motions to dismiss and motions for summary judgment is February 3, 2014.
- 7) Motions in limine shall be filed five business days prior to trial. It is not the normal practice to hold hearings on motions in limine or to rule on them in advance. Counsel should plan accordingly.

September 12, 2013.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge